

In the Matter of Merchant Mariner's Document No. Z-339368-D1 and  
all other Licenses, Certificates and Documents  
Issued to: GUY A. SAVIO

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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GUY A. SAVIO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 20 October 1955, an Examiner of the United States Coast Guard at New York, New York suspended Merchant Mariner's Document Z-339368-D1 issued to Guy A. Savio upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as an electrician on board the American SS UNITED STATES under authority of the document above described, on or about 20 August 1955, while said vessel was at sea, he assaulted and battered a member of the crew named Charles F. Boyer.

Appellant commencement of the hearing on 1 September 1955, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. At Appellant's request, the hearing was adjourned until 14 September in order to permit Appellant to obtain counsel. When the hearing was reconvened on the latter date, Appellant was represented by counsel of his own choice. Appellant entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of witnesses as well as documentary exhibits before resting his case.

In defense, Appellant offered in evidence the testimony of several witnesses. The hearing was then adjourned until 29 September by agreement of the parties. On this date, Appellant testified under oath and rested his case.

At the conclusion of the open hearing on 29 September, the Examiner heard the arguments of the Investigating Officer and Appellant's counsel and gave both parties an opportunity to submit proposed findings and conclusions. On or about 20 October 1955,

the Examiner rendered his decision by mailing it to Appellant's counsel in accordance with a prior agreement with counsel. The Examiner concluded that the charge and specification had been proved. He entered an order suspending Appellant's Merchant Mariner's Document No. 33938-D1, and all the other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of six months - two months outright suspension and four months suspension on probation until twelve months after the termination of the outright suspension. Appellant surrendered his document on 28 October and, upon request, was issued a temporary document on 1 November 1955.

Based upon my examination of the record submitted, I hereby make the following

#### FINDINGS OF FACT

On 20 August 1955, Appellant was serving as an electrician on board the American SS UNITED STATES and acting under authority of his Merchant Mariner's Document No. Z-339368-D1 while the ship was at sea.

At about 2000 on this date, Appellant was in a room with three other crew members including Boyer, a yeoman. An argument developed between Appellant and Boyer concerning some union meeting minutes which Boyer had previously requested from Appellant and he had refused to give to Boyer. When Appellant again refused to give the minutes of the meeting to Boyer, the latter said he would report Appellant to the union committee on the ship. At this point, Appellant grabbed Boyer's tie, gave him a backhand slap on the face and then used both fists to punch Boyer's face a number of times. Boyer put up his hands and arms to protect his face but he did not strike Appellant. Eventually, the other two seamen in the room stopped Appellant from striking Boyer. Injuries were inflicted upon Boyer which necessitated medical treatment.

There is no prior record of disciplinary action having been taken against Appellant.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the order is too severe because the Examiner erred in failing to give Appellant credit for the two months' loss of employment extending from the time of the filing of the charges until the Examiner's decision was rendered. Appellant claims that he was discharged from the ship on 31 August as the result of the filing of the charges and that he did not work until after 31 October solely because of the proceeding hearing.

Appellant states that he received the Examiner's decision on 26 October. It is contended that a further suspension of two months will result in a loss of employment for a total of four months.

APPEARANCES: Thomas A. McDonald, Esquire, of  
New York City of Counsel.

#### OPINION

Appellant does not question the findings of the Examiner but simply the propriety of the Order imposed. The implication of Appellant's contentions on appeal is that he thinks the two months' outright suspension should not be included in the Order since Appellant has already been unemployed for two months as a result of this incident.

It is apparent from the above reference to the dates of the hearing that the first of the two months' period resulted from the request of Appellant for an adjournment to obtain counsel and from an adjournment agreed to by counsel for Appellant and the Investigating Officer. About three weeks of the second month was the time during which the Examiner was considering the evidence and preparing his decision. Under these circumstances, I do not think that Appellant's rights were unfairly prejudiced by others. Further, it is evident that there was no legal restriction placed upon the use of Appellant's document until the Examiner rendered his decision. The order was lenient in view of the completely unjustified nature of Appellant's assault and battery upon Boyer. Any one of these reasons is enough to dissuade me from altering the order.

#### ORDER

The Order of the Examiner dated at New York, New York on 20 October 1955 is AFFIRMED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D.C., this 3rd day of February, 1956.